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LERNER GREENBERG STEMER LLP			DUONG, THANH P	
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/998,724  
Filing Date: November 30, 2001  
Appellant(s): BRUCK, ROLF

**MAILED**  
**JUN 29 2007**  
**GROUP 1700**

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Laurence A. Greenberg  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed March 5, 2007 appealing from the Office action mailed August 31, 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct. Note, Only claims 5-7, 14, and 17-20 are under appeal. Thus, only these claims are rejected.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,714,103	Bauer et al.	02-1998
5,474,746	Maus et al.	12-1995

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 5-7, 14, and 17-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer et al. '103 in view of Maus et al. (5,474,746). Regarding claims 5 and 7, Bauer '103 discloses a honeycomb body (Col. 6, lines 57-67) comprising: ceramic walls all being entirely formed of printed layers (Col. 3, lines 5-67 and Col. 4, lines 17-59) forming channels through which a fluid can flow, said channels lying next to one another. Bauer et al. '103 fails to disclose at least one at least one measuring sensor and an electrically conductive mass integrated into one of said ceramic walls. Maus '746 teaches at least one temperature sensor and/or heat conductor 17 (Figures 1-3, Abstract and Col. 2, lines 17-49) is embedded in the metal-

jacketed tube or electrically conductive mass integrated into a honeycomb body (Fig. 5 and Col. 3, lines 41-60) to measure the wall temperature of the catalytic converter (Col. 3, lines 55-60). Thus, it would have been obvious in view of Maus '746 to one having ordinary skill in the art to modify the honeycomb body of Bauer '103 with a temperature sensor and/or measuring conductor and an electrically conductive mass integrated into one of said ceramic walls as taught by Maus '746 in order to measure the wall temperature of the honeycomb body. Regarding claim 6, the combination of Bauer '103 in view of Maus '746 provide a honeycomb body with at least one of said measuring sensor and said electrically conductive mass surrounded completely by ceramic.

Regarding claim 14, the applied references disclose it is conventional to fabricate the honeycomb body with ceramic and/or combination of ceramic and non-ceramic materials and it would have been obvious in view of the applied references to one having ordinary skill in the art to select a known material for the honeycomb body based on its intended use (See Bauer et al., Col. 3, lines 15-52 and Maus et al. '746, Col. 2, lines 25-30) See *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Regarding claim 17, Bauer discloses the layers (Col. 4, lines 16-27) can be formed desirable shapes including flat shapes. Furthermore, the court held that a change in shape is obvious over the prior art in the absent of unexpected results. See *In re Dailey*, 357 F.2d 669, 149, USPQ 47 (CCPA 1966). Regarding claims 18 and 19, the fluid flow orientation with respect to the honeycomb body does not impart patentability to the claims. Note, expression relating the apparatus to contents thereof during an intended operation are of no significance in determining patentability of the apparatus claim. Ex

*parte Thibault*, 164 USPQ 666, 667 (Bd App. 1969) and *In re Young*, 75, F.2d 966, 25 USPQ 69 (CCPA 1935). Regarding claim 20, Bauer '103 discloses the layers (Col. 4, lines 17-28) have a three-dimensional interconnecting pore structure (Col. 6, line 62-Col. 7, lines 1-4).

#### **(10) Response to Argument**

In several places of the brief,

(1) Applicant argues on pages 8-9, "It must be understood that although Bauer can use different materials, he cannot use two different materials in the same article. If Bauer mixes materials, the same mixture is used everywhere. Claim 5 of the instant application calls for at least one measuring sensor or an electrically conductive mass integrated into one of the ceramic walls. Therefore, one or two elements of a material different than that of the walls are integrated into one of the ceramic walls. At most, Bauer could only provide two of the same elements as part of one wall and then two of the same elements as part of another wall - but never two different elements in the same wall."

Such contention is not persuasive because the primary reference Bauer et al. discloses composite materials of two or more materials can be processed and undergo plastic deformation and then solidified (Col. 3, lines 15-30). In addition, it is noted that the features upon which applicant relies (two different elements in the same wall) are not recited in the rejected claim(s). Although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(2) Applicant argues on page 10, "...one of ordinary skill in the art were to make a combination of Bauer and Maus, first the walls of the ceramic honeycomb structure would need to be manufactured according to a printing method, and afterwards the sensor would have to be positioned between two such printed layers before the honeycomb structure was finally formed. Since the printed layers have to be solidified before they can be positioned with respect to each other, the teaching of Maus clearly destroys the concept of the Bauer reference.

Such contention is not persuasive being the fact that the method of embedding the sensor in the ceramic honeycomb structure is not claimed. Note, the claims currently under appeal are directed to an article.

(3) Applicant argues on page 11, "The statement found in column 2, line 28 of Maus regarding conductors being embedded into a layer of electrically insulating ceramic powder is applicable to, walls of a honeycomb structure which are made from metal.

Therefore, Maus is only directed toward metallic honeycomb structures and since the ceramic powder is not built up with printed layers, there is no link to the Bauer reference."

Such contention is not persuasive as the primary reference Bauer et al. discloses the ceramic powder is built up in printed layers as the material of construction for the honeycomb body and the secondary reference Maus is relied on for the teaching of the sensor and electrically conducted mass.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Tom Duong



Conferees:

Glenn Caldarola



/Jennifer Michener/

Quality Assurance Specialist

Jennifer K Michener